

**ORIGINAL**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

NationsRent, Inc., et al.,<sup>1</sup>

Debtors.

NationsRent Unsecured Creditor's  
Liquidating Trust, Perry Mandarino, not  
personally, but as Trustee

Plaintiff,

v.

Advanced Tire Inc.

Airdyne Management Inc.

ASAP Equipment Rental &amp; Sales

Blue Ribbon Tire Co., Inc.

EJ Reynolds, Inc.

CMD Group

GCR Pensacola Truck Tire Ctr.

GMR Marketing LLC

Goodyear Commercial Tire &amp; Service Center

Mutual Industries

Nabors Radiator &amp; Electric

Harte-Hanks

US Market Inc.

Joe Money Machinery

Office Management Systems Inc.

Case Nos. 01-11628 through 01-11639 (PJW)

Jointly Administered

Chapter 11

District Court Case Nos. (KAJ):

04-CV-713

04-CV-714

04-CV-716

04-CV-721

04-CV-722

04-CV-726

04-CV-730

04-CV-731

04-CV-733

04-CV-737

04-CV-738

04-CV-739

04-CV-740

04-CV-741

04-CV-742

<sup>1</sup> NationsRent USA, Inc., NationsRent Transportation Services, Inc., NR Delaware, Inc., NRGP, Inc., NationsRent West, Inc., Logan Equipment Corp., NR Dealer, Inc., NR Franchise Company, Inc., NationsRent of Texas, LP, and NationsRent of Indiana, LP

|   |           |
|---|-----------|
| Ingram Trucking LLC                                   | 04-CV-744 |
| Reeder Distributors Inc.                              | 04-CV-749 |
| Saber Fleet Services, Inc. d/b/a Weiland Tire Service | 04-CV-753 |
| Sherwin-Williams                                      | 04-CV-754 |
| Maxout Sourcing Services                              | 04-CV-758 |
| The Valvoline Company                                 | 04-CV-759 |
| Morgan Marshall Industries Inc.                       | 04-CV-763 |
| A.O.K. Tire Mart II, Inc.                             | 04-CV-766 |
| Ael Leasing Co., Inc.                                 | 04-CV-767 |
| GSR Construction, Inc.                                | 04-CV-768 |
| Gullo Ford Mercury                                    | 04-CV-769 |
| Hick's Petroleum Distributors, Inc.                   | 04-CV-770 |
| Holt Equipment Company Co., LLC                       | 04-CV-772 |
| John Ray and Sons Inc.                                | 04-CV-774 |
| Orlando Industrial Contractors                        | 04-CV-776 |
| Original Equipment Replacement Parts, Inc.            | 04-CV-777 |
| Johnson Ford Truck                                    | 04-CV-779 |
| Parkway Truck Sales, Inc.                             | 04-CV-781 |
| M.P. Brine Inc.                                       | 04-CV-783 |
| Authorized Equipment, Inc.                            | 04-CV-784 |
| Neff Rental Inc.                                      | 04-CV-785 |
| Pratt & Whitney Canada, Inc.                          | 04-CV-786 |
| Diamond J. Transport, Inc.                            | 04-CV-787 |
| Equiptechs, Inc.                                      | 04-CV-789 |
| Promotion Solution Inc.                               | 04-CV-790 |
| Progressive Tractor Corp.                             | 04-CV-791 |
| Olsen Tire  | 04-CV-792 |

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| Contractors Machinery Co. Inc.                              | 04-CV-795  |
| Southeastern Crane  | 04-CV-799  |
| BBF, Ltd  | 04-CV-800  |
| C.G.& E.  | 04-CV-802  |
| Vic's Tire Service  | 04-CV-804  |
| Texana Machinery Corp.                                      | 04-CV-805  |
| Commercial Tire Inc.  | 04-CV-806  |
| Tacony Corporation  | 04-CV-808  |
| ADA Resources Inc.  | 04-CV-976  |
| American Hydraulics   | 04-CV-980  |
| TMP Worldwide Inc. also known as<br>Monster Worldwide, Inc. | 04-CV-986  |
| Kent Demolition Tools                                       | 04-CV-987  |
| Alternators Unlimited Reb.                                  | 04-CV-988  |
| Land & Sea Petroleum, Inc.                                  | 04-CV-993  |
| Central Tire  | 04-CV-995  |
| Little Beaver, Inc.   | 04-CV-997  |
| Columbus McKinnon Corp.                                     | 04-CV-999  |
| Corporate Express   | 04-CV-1001 |
| Truck PM Corporation  | 04-CV-1002 |
| Diamant Boart Inc.  | 04-CV-1004 |
| Tsurumi (America) Inc.                                      | 04-CV-1005 |
| Diamond Hydraulics  | 04-CV-1006 |
| Harbor Graphics Corporation                                 | 04-CV-1007 |
| The Miller Spreader Co.                                     | 04-CV-1008 |
| Hindley Electronics, Inc.                                   | 04-CV-1013 |
| Mission Critical System, Inc.                               | 04-CV-1014 |
| Hunt & Sons   | 04-CV-1019 |

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| Empire Partner Inc.   | 04-CV-1023 |
| Multiquip Inc.  | 04-CV-1025 |
| Bobcat Company  | 04-CV-1026 |
| Naab Consulting Corp.   | 04-CV-1027 |
| Mobile Storage Group, Inc.  | 04-CV-1028 |
| Robertson Fleet Service Inc.  | 04-CV-1029 |
| Rhode Island Tire Co. Inc.  | 04-CV-1032 |
| 3-D/Costal Oil Company  | 04-CV-1033 |
| Bradenton Fuel Oil, Inc.  | 04-CV-1037 |
| Black & Veatch Constr.  | 04-CV-1039 |
| NAPA Auto Parts, National Automotive<br>Parts Association                   | 04-CV-1041 |
| Igloo Products Corp.  | 04-CV-1042 |
| ID Technologies, Inc.   | 04-CV-1043 |
| Nortrax Equipment Co. South LA  | 04-CV-1044 |
| Nortrax Equipment Co. SE, LLC   | 04-CV-1045 |
| Hart Industries Inc.  | 04-CV-1046 |
| Partner Industrial Products   | 04-CV-1047 |
| Gene Jackson Tire Co.   | 04-CV-1049 |
| Star Tire Company Inc.  | 04-CV-1050 |
| Sullivan Palatek Inc.   | 04-CV-1052 |
| Palmer Distributing & Sales   | 04-CV-1055 |
| Parts Associates  | 04-CV-1056 |
| Bay Counties Pitcock Petroleum Inc.   | 04-CV-1060 |
| Peterson Tire Inc.  | 04-CV-1061 |
| Nashville Tractor & Equip. Inc. formally<br>known as Nashville Ford Tractor | 04-CV-1063 |
| Nortrax NE LLC  | 04-CV-1064 |
| NSTAR Electric & Gas Corporation  | 04-CV-1066 |

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| NACM   | 04-CV-1067 |
| Illuminating Company                             | 04-CV-1070 |
| Vermeer of Tennessee, Inc.                       | 04-CV-1071 |
| Napa Auto Parts of Franklin                      | 04-CV-1073 |
| Industrial Hydraulics                            | 04-CV-1075 |
| Vickers & Asso, Inc.                             | 04-CV-1079 |
| Jimmy's Garage                                   | 04-CV-1080 |
| Viking Oil                                       | 04-CV-1081 |
| Southern Energy Company                          | 04-CV-1084 |
| Nickey Petroleum Co. Inc.                        | 04-CV-1085 |
| Voltech Company                                  | 04-CV-1087 |
| OTR Tire & Supply Co.                            | 04-CV-1088 |
| Overland Machinery Co.                           | 04-CV-1089 |
| Penick, Parr & Associates                        | 04-CV-1092 |
| Southern Linc                                    | 04-CV-1093 |
| Diversified Credit Service                       | 04-CV-1096 |
| Watkins Oil Co Inc.                              | 04-CV-1097 |
| Pipeline Supply & Service                        | 04-CV-1098 |
| Speedway New Holland                             | 04-CV-1100 |
| Stewart & Stevenson                              | 04-CV-1101 |
| World Wide Welding & Press Inc.                  | 04-CV-1103 |
| Roland J. Robert Dist. Inc.                      | 04-CV-1104 |
| Don's Tire Service, Inc.                         | 04-CV-1106 |
| Vermeer Sales and Service of Southern Ohio, Inc. | 04-CV-1107 |
| Pro Chem Cleaning                                | 04-CV-1108 |
| Sellers Petroleum Products Inc.                  | 04-CV-1109 |
| Sunbelt Rentals Inc.                             | 04-CV-1110 |

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| Dorris Cleaning                           | 04-CV-1111 |
| Vermeer Sales & Service of Colorado, Inc. | 04-CV-1112 |
| Staffing Master.com                       | 04-CV-1113 |
| Douglass Distributing                     | 04-CV-1114 |
| Keson Industries Inc.                     | 04-CV-1116 |
| Dutchess Forging                          | 04-CV-1117 |
| Quick Corner CITGO                        | 04-CV-1119 |
| Tex Con Oil Company                       | 04-CV-1120 |
| JAM Distributing Company                  | 04-CV-1123 |
| Barloworld Handling LP                    | 04-CV-1125 |
| Equipment Development Co., Inc.           | 04-CV-1128 |
| Tioga Inc.                                | 04-CV-1129 |
| Falcon Power                              | 04-CV-1130 |
| TIP Dept 0501                             | 04-CV-1131 |
| Tire Centers LLC                          | 04-CV-1133 |
| S&D Tire Inc.                             | 04-CV-1134 |
| Tullo Truck Stop                          | 04-CV-1138 |
| Sanford Auto & Truck Parts                | 04-CV-1140 |
| Fischer Group                             | 04-CV-1141 |
| Construction Machinery, Inc.              | 04-CV-1142 |
| Valley Rubber & Gasket                    | 04-CV-1144 |
| Collision Pro                             | 04-CV-1149 |
| Fleetwing Corp.                           | 04-CV-1151 |
| Fluid Tech Hydraulics, Inc.               | 04-CV-1154 |
| Dossey Holdings, Inc.                     | 04-CV-1155 |
| Archie's Truck Service                    | 04-CV-1158 |
| Soco Group                                | 04-CV-1159 |
| Arrow Master, Inc.                        | 04-CV-1160 |

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| J&B Auto Supply, Inc.                              | 04-CV-1162 |
| L&P Financial Services                             | 04-CV-1165 |
| Vermeer Equipment of Texas Inc.                    | 04-CV-1166 |
| Delta BCX Printing                                 | 04-CV-1167 |
| Delta Formost Chemical Corporation                 | 04-CV-1170 |
| Services & Materials, Co.                          | 04-CV-1171 |
| M & D Distributors                                 | 04-CV-1172 |
| SB Power Tool Corp.                                | 04-CV-1174 |
| Vermeer Northeast                                  | 04-CV-1175 |
| Husqvarna Forest & Garden                          | 04-CV-1176 |
| Miller Bros Giant Tire Service- Jacksonville, Inc. | 04-CV-1178 |
| Wayne Miller's Mobile Tire Inc.                    | 04-CV-1179 |
| Stone Construction Equipment Inc.                  | 04-CV-1183 |
| Jeff Falkanger & Associates                        | 04-CV-1184 |
| Mobile Products, Inc.                              | 04-CV-1186 |
| Sun Coast Resources Inc.                           | 04-CV-1188 |
| Vermeer Sales of Texas Inc.                        | 04-CV-1189 |
| Morgan Auto Supply Co.                             | 04-CV-1191 |
| Morgan Guaranty Trust Company of New York          | 04-CV-1192 |
| Napa Auto Parts                                    | 04-CV-1193 |
| Valley Tire Co., Inc.                              | 04-CV-1194 |
| Triton Transport Inc                               | 04-CV-1196 |
| Vector Security Inc                                | 04-CV-1197 |
| Truck Lease Corp.                                  | 04-CV-1198 |
| Defendants.  |            |

### **SCHEDULING ORDER**

This 11<sup>th</sup> day of October 2005, the Court having conducted an initial Rule 16 scheduling and planning conference pursuant to Local Rule 16.2(a), and the parties having determined after discussion that the matters cannot be resolved at this juncture by settlement, voluntary mediation, or binding arbitration;

IT IS ORDERED that:

1. Rule 26(a)(1) Initial Disclosures. Unless otherwise agreed to by the parties, the parties shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) within fourteen days of the date of this Order.

2. Joinder of other Parties and Amendment of Pleadings. All motions to join other parties, and to amend or supplement the pleadings shall be filed on or before December 16, 2005.

3. Discovery.

a. Limitation on Hours for Deposition Discovery. Each side is limited to a total of 24 hours of taking testimony by deposition of fact witnesses upon oral examination.

b. Location of Depositions. Any party or representative (officer, director, or managing agent) of a party filing a civil action in this district court must ordinarily be required, upon request, to submit to a deposition at a place designated within this district. Exceptions to this general rule may be made by order of the Court. A defendant who becomes a counterclaimant, cross-claimant, or third-party plaintiff shall be considered as having filed an action in this Court for the purpose of this provision.

c. Fact Discovery Cut Off. All fact discovery in these cases shall be initiated so that it will be completed on or before March 17, 2006. The Court encourages the parties to



serve and respond to contention interrogatories early in the case. Unless otherwise ordered by the Court, the limitations on discovery set forth in Local Rule 26.1 shall be strictly observed.

d. Disclosure of Expert Testimony. Unless otherwise agreed to by the parties, they shall file their initial Federal Rule of Civil Procedure 26(a)(2) disclosures of expert testimony on or before March 31, 2006; and they shall file a supplemental disclosure to contradict or rebut evidence on the same subject matter identified by another party on or before April 28, 2006. To the extent any objection to expert testimony is made pursuant to the principles announced in Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993), it shall be made by motion no later than the deadline for dispositive motions set forth herein, unless otherwise ordered by the Court. All expert discovery shall be initiated so that it will be completed on or before June 1, 2006.

e. Discovery Disputes. Should counsel find they are unable to resolve a discovery dispute, the party seeking the relief shall contact chambers at (302) 573-6001 to schedule a telephone conference. Not less than forty-eight hours prior to the conference, the party seeking relief shall file with the Court a letter, not to exceed three pages, outlining the issues in dispute and its position on those issues. (The Court does not seek extensive argument or authorities at this point; it seeks simply a statement of the issue to be addressed and or summary of the basis for the party's position on the issue.) Not less than twenty-four hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed three pages, outlining that party's reasons for its opposition. Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it. Disputes over protective orders are to be addressed in the first instance in accordance with this paragraph.

4. Papers Filed Under Seal. When filing papers under seal, counsel should deliver to the Clerk an original and one copy of the papers.

5. Settlement Conference. Pursuant to 28 U.S.C. § 636, all proceedings in which the Liquidating Trust is seeking to avoid and recover transfers in the amount of \$50,000.00 or greater are referred to the United States Magistrate for the purpose of exploring the possibility of a settlement. The Magistrate Judge will schedule a settlement conference with counsel and their clients to be held within ninety days from the date of this Order.

6. Interim Status Report. On March 17, 2006, counsel for the Liquidating Trust shall file an interim report on the nature of the matters in issue and the progress of discovery to date.

7. Case Dispositive Motions. All case dispositive motions, an opening brief, and affidavits, if any, in support of the motion shall be served and filed on or before July 5, 2006. Briefing will be presented pursuant to the Court's Local Rules.

8. Applications by Motion. Except as otherwise specified herein, any application to the Court shall be by written motion filed with the Clerk. Unless otherwise requested by the Court, counsel shall not deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

9. Status Conference. On \_\_\_\_\_, \_\_\_\_\_ the Court will hold a Rule 16(a), (b) and (c) conference with counsel beginning at \_\_\_\_\_ .m. to discuss the status of the proceedings and to schedule the final pretrial conference, trial date, and other deadlines in the proceedings.

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The Honorable Kent A. Jordan  
United States District Court Judge